



SURFACE TRANSPORTATION BOARD

[Docket No. AB 1065 (Sub-No. 4X)]

Indiana Southwestern Railway Co.—Abandonment Exemption—in Posey and Vanderburgh Counties, Ind.

Indiana Southwestern Railway Co. (ISW) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments to abandon approximately 20.367 miles of interconnecting rail lines (the Lines) in Posey and Vanderburgh Counties, Ind., as follows: (1) from milepost 227.5 (at Poseyville, Ind.) to milepost 243.2 (at the centerline of North St. Josephs Ave. near Evansville, Ind.), a total of approximately 15.7 miles; and (2) approximately 4.667 route miles from milepost 282.0 (at Poseyville, Ind.) to milepost 277.5 (at Cynthiana, Ind.).¹ The Lines traverse U.S. Postal Service Zip Codes 47720, 47633, and 47612.

ISW has certified that: (1) no local traffic has moved over the Lines for well over two years; (2) there is no overhead traffic on the Lines, and, if there were any, it could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Lines (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Lines either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements of 49 CFR 1105.7 and 1105.8 (notice of environmental and historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

¹ ISW filed an errata on June 28, 2021, to correct the description of the Lines. According to ISW, in its original submissions, the locations for milepost 282.0 and milepost 277.5 were unintentionally swapped.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,² the exemption will be effective on August 15, 2021, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 26, 2021.⁴ Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 5, 2021.

All pleadings, referring to Docket No. AB 1065 (Sub-No. 4X), should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on ISW's representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue, N.W., Suite 300, Washington, DC 20037.

² Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(2)(i).

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁴ Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

If the verified notice contains false or misleading information, the exemption is void ab initio.

ISW has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA issued a Draft Environmental Assessment (Draft EA) on July 9, 2021.⁵ The Draft EA is available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed by July 26, 2021.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), ISW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Lines. If consummation has not been effected by ISW's filing of a notice of consummation by July 16, 2022, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at www.stb.gov.

Decided: July 13, 2021.

By the Board, Valerie O. Quinn, Acting Director, Office of Proceedings.

Aretha Laws-Byrum,

Clearance Clerk.

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⁵ The Draft EA used the incorrect milepost locations for the Lines from ISW's original submissions. Those locations will be corrected in the Final EA.